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Docket No.: BCS03399/PD05957AM

UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT(S) Raj Deshpande GROUP ART UNIT: 2664
Roger W. Ady
Christopher R. Bach
APPLN. NO.: 09/812,994 EXAMINER: Jamal A. Fox
FILED: March 20, 2001
TITLE: METHOD TO OPTIMALLY SELECT BANDWIDTH AND PRIORITY
FOR VOICE MESSAGE PACKETS IN A VOICE OVER IP NETWORK

Certificate of Mailing

Date of deposit: November 23, 2004

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AMENDMENT IN RESPONSE TO NON-FINAL OFFICE ACTION

MS Non-Fee Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

INTRODUCTORY COMMENTS

In response to the non-final Office Action dated August 24, 2004, please amend the above-identified U.S. patent application as follows:

REMARKS

A. Status of the Application

Claims 1-24 are presently pending in the instant application.

The Examiner has rejected claims 1, 5, 7, 11, 12, 17 and 23 as being anticipated by U.S. Patent No. 6,363,065 ("Thornton") under 35 U.S.C. § 102(e); claims 1-7, 11-20 and 22-24 as being anticipated by U.S. Patent No. 6,295,292 ("Voit") under 35 U.S.C. § 102(e); and claims 1, 2, 4-7 and 9 as obvious in light of U.S. Patent No. 6,775,267 ("Kung") under 35 U.S.C. § 103(a). Claims 8, 10 and 21 were objected to as being dependent upon rejected claims, but described as "allowable" if rewritten in independent form.

In response, the Applicant respectfully traverses these rejections and objections.

B. Rejections based upon Thornton

The Examiner has rejected claims 1, 5, 7, 11, 12, 17 and 23 as being anticipated by U.S. Patent No. 6,363,065 ("Thornton") under 35 U.S.C. § 102(e). Applicants submit that the instant invention, as claimed in claim 1, is not only distinguishable from the systems and/or methods disclosed in Thornton, but Thornton actually teaches away from the Applicants' invention.

Col. 30, lines 5-32 of Thornton describe a somewhat generic gatekeeping/priority system and method wherein a voice call is switched between a data network and a public switched telephone network (PSTN) as a function of the network quality (see col. 4, line 65 –